

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2009-300-C - ORDER NO. 2009-816
NOVEMBER 19, 2009

IN RE:	Application of LMK Communications, LLC)	ORDER GRANTING
	for a Certificate of Public Convenience and)	CERTIFICATE
	Necessity to Provide Interexchange and)	
	Local Exchange Telecommunications)	
	Services and for Local Service Offerings)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of LMK Communications, LLC ("LMK" or the "Company") for authority to provide local exchange and interexchange telecommunications services within the State of South Carolina (the "Certification Application").

Further, the Company requests that the Commission regulate its local retail telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C. In addition, the Company requests that the Commission regulate its business interexchange service offerings under modified alternative regulation.

The Company's Application was filed pursuant to S.C. Code Ann. Section 58-9-280, S.C. Code Ann. Section 58-9-585 and the Rules and Regulations of the Commission. By letter, the Commission instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the

Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in this proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). Subsequently, counsel for SCTC filed with the Commission a Stipulation. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on October 26, 2009, at 11:30 a.m. before David Butler, Esquire, Hearing Examiner. Scott Elliott, Esquire, represented the Company. Jeff Nelson, Esquire, represented the Office of Regulatory Staff ("ORS"). At the outset of the hearing, the Applicant and the ORS entered a Settlement Agreement into the record attached hereto as Order Exhibit 2. Jennifer Menge, Assistant Secretary and Assistant Treasurer of the Applicant, appeared and testified in support of the Application.

According to the record, LMK is a North Carolina Corporation. Ms. Menge testified that the Applicant is certificated to provide telecommunications services in North Carolina and Virginia. The Applicant has received authority from the South Carolina Secretary of State to transact business within the State of South Carolina. According to Ms. Menge, LMK will provide resold and facilities-based local exchange telecommunications services and interexchange telecommunications services. The Applicant's services will be marketed and provided primarily to residential and business

customers and will offer such services on a twenty-four (24) hour a day, seven (7) day a week basis. Ms. Menge further testified regarding the managerial experience of the Company's executives as well as the financial status of the Company. Ms. Menge also testified that the Company had substantial financial resources to ensure the viability of the Company. Both a resume of the key personnel and senior management and recent financial reports of the Company were submitted into the record.

Ms. Menge finally testified that granting LMK's Application will introduce a telecommunications service provider committed to providing high-quality, innovative, and technologically advanced services that will further increase telecommunications competition in the State of South Carolina. She opined that the Commission's granting of the Application is therefore in the public interest.

Ms. Menge asserted that the Company will operate in compliance with all applicable statutes, regulations, and Commission orders. Further, Ms. Menge testified that LMK has never had authority denied in any state where it has applied for authority nor has the Company had authority revoked in any state where it has been granted authority. Ms. Menge stated that the Company will abide by all applicable Commission rules, regulations and orders upon the Company receiving certification to provide intrastate interexchange and local exchange telecommunications services in South Carolina.

Ms. Menge also discussed the Company's request for certain waivers of Commission regulations. The Company requests that it be exempt from any rules or regulations that would require it to keep financial records in conformance with the

Uniform System of Accounts ("USOA"). Additionally, the Company seeks a waiver of 26 S.C. Code Ann. Regs. 103-631 so that it will not be required to publish local exchange directories. The Company will contract with at least one incumbent local exchange carrier (or its directory publishing affiliate) for the inclusion of the Company's CLEC customer base into the master customer database of the local exchange carrier. At the hearing, Ms. Menge also requested that the Company be granted a waiver of 26 S.C. Code Ann. Regs. 103-610 so that the Company is permitted to maintain its records outside of South Carolina. The Company wishes to maintain its books and records in its principal place of business located in North Carolina.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Company is a duly organized corporation which exists under the laws of the State of North Carolina and has been authorized to do business in the State of South Carolina by the Secretary of State.

2. The Company is a provider of local exchange and interexchange telecommunications services and wishes to provide its services in South Carolina. The Company is not providing prepaid local exchange services at this time; prior to offering such services the Company has agreed to comply with the Commission's bond requirements.

3. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280 (B)(1)

4. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3).

5. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280 (B)(4).

6. The Commission finds that the services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280 (B)(2).

7. The Commission finds that the provision of local exchange service by the Company "does not otherwise adversely impact the public interest" S.C. Code Ann. Section 58-9-280 (B)(5).

8. Following execution of the Stipulation with the SCTC, the SCTC withdrew its opposition to the Application.

9. The Settlement Agreement between the Company and the ORS is fair and reasonable and in the public interest.

CONCLUSIONS OF LAW

1. The Commission concludes that the Company possesses the managerial, technical, and financial resources to provide the competitive local exchange and interexchange telecommunications services as described in the Application.

2. The Commission concludes that the Company's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that the Company will participate in the support of universally available telephone service at affordable rates to the extent that the Company may be required to do so by the Commission.

4. The Commission concludes that the Company will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange services by the Company will not otherwise adversely impact the public interest.

6. Based on the above findings of fact and conclusions of law, the Commission determines that a statewide Certificate of Public Convenience and Necessity should be granted to the Company to provide competitive local exchange services. The terms of the Stipulation between the Company and SCTC are approved and adopted as a part of this Order. Any proposal to provide local telecommunications service to rural service areas is therefore subject to the terms of the Stipulation. In addition, the Company is granted authority to provide interexchange telecommunications services through the resale of services offered by other carriers approved by the Commission.

7. The Commission concludes the Company's local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company's competitive intrastate local exchange services a rate structure

incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

8. The Commission adopts a rate design for the long distance services of the Company consistent with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C and modified by Order No. 2001-997.

9. Under the Commission approved modified alternative regulation, the business service offerings of the Company, including consumer card services and operator services, are subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses an incumbent local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this

relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to the Company also.

10. With regard to the residential interexchange service offerings of the Company, the Commission adopts a rate design that includes only maximum rate levels for each tariff charge. The Commission has previously adopted a rate structure incorporating maximum rate levels. In Re: Application of GTE Sprint Communications Corporation, etc. Order No. 84-622, issued in Docket No. 1984-10-C (August 2, 1984).

11. With regard to residential interexchange service rates, the Company shall not adjust its residential interexchange service rates below the approved maximum levels without notice to the Commission and to the public. The Company shall file its proposed rate changes, publish notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances that do not affect the general body of subscribers or do not constitute a general rate reduction, In Re: Application of GTE Sprint Communications, etc. Order No. 93-638, issued in Docket No. 1984-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall

constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540.

12. We conclude that the Applicant's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted, since strict compliance with the regulation potentially causes undue hardship on the Company. We also grant exemption from the policies requiring the use of USOA. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631, which requires publication of a local telephone directory. Last, we grant a waiver of 26 S.C. Code Ann. Regs. 103-612.2.3, which requires filing a map of the service territory.

13. The Settlement Agreement between ORS and LMK is approved.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity is granted to LMK Communications, LLC to provide competitive local exchange and interexchange telecommunications services.

2. The terms of the Stipulation between the Company and the SCTC is approved and adopted as part of this Order. The Stipulation is attached as Order Exhibit

1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of the Stipulation.

3. The Company shall file, if it has not already done so by the date of issuance of this Order, its revised local and long distance tariffs. The revised tariffs should be electronically filed in a test searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to

etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariffs should be made using the ETariff System. The revised tariffs shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations, and shall be filed as stated within 30 days of receipt of this Order.

4. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that, for access charge purposes, resellers should be treated similarly to facilities-based interexchange carriers.

5. With regard to the Company's interexchange services, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. To the extent the Company resells interexchange services, the Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 1992-182-C, 1992-183-C, and 1992-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission ("FCC"), pursuant to the Telecommunications Act of 1996 (See 47 CFR 51.209). Specifically, the Company shall comply with the imputation

standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. LMK is required to comply with Title 23, Chapter 47, South Carolina Code of Laws Annotated which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a 911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs the Company to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate authorities is to be made before providing voice or dial tone telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office at the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo provides information about contacting County 911 Coordinators. By this Order and prior to providing voice or dial-tone services within South Carolina, the Applicant is directed to contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

9. The Applicant shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of South Carolina specific information. Therefore, the Company shall keep financial records on its South Carolina operations to

comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website or at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Applicant to file annual financial information as directed by the Commission or ORS and shall be filed no later than April 1st.

Commission gross receipts forms are due to be filed no later than August 31st of each year. The proper form for filing gross receipts information can be found at the ORS website www.regulatorystaff.sc.gov and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The State USF worksheet is due to be filed annually no later than July 1st with the ORS.

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

The Company shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at www.regulatorystaff.sc.gov. this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced. If the Company changes or modifies its name, the Company shall file such changes with the Commission for approval.

11. The Company shall conduct its businesses in compliance with Commission decisions and orders, both past and future.

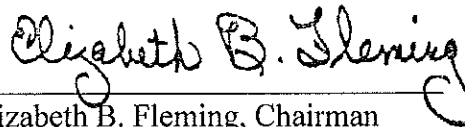
12. By its Application, the Company requested a waiver of 26 S.C. Code Ann. Regs. 103-631. The Commission finds the Company's request reasonable and grants the requested waiver of the application of 26 S.C. Code Ann. Regs. 103-631. Further, the Company is granted a waiver of 26 S.C. Ann. Regs. 103-610 requiring the Company to maintain its financial books and records within the State of South Carolina. However, as a condition of being granted a waiver of the requirement to maintain corporate books and records within the State Of South Carolina the Company shall make such books and records available, at the Company's expense, to the Office of Regulatory Staff upon request. Further, the Company is granted a waiver of the requirement that books and records be maintained in accordance with the Uniform Systems of Accounts (“USOA”). Last, the Commission grants the Applicant's request for the waiver of the requirement that it file a map of its service territory as required by 26 S.C. Code Ann. Regs. 103-

612.2.3. The Company is directed to comply with all Rules and Regulations of the Commission, unless the Commission specifically waives compliance with a regulation.

13. The Settlement Agreement between LKM and ORS is hereby approved.

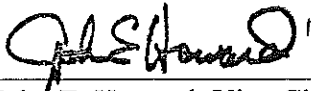
14. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice Chairman

(SEAL)

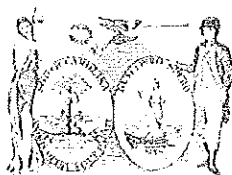
STATE OF SOUTH CAROLINA
State Budget and Control Board

OFFICE OF RESEARCH & STATISTICS

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FRANK W. FUSCO
EXECUTIVE DIRECTOR

REMBERT C. DENNIS BUILDING
1000 ASSEMBLY STREET, SUITE 425
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at www.ors.state.sc.us/digital/E-911.ASP. If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

ECONOMIC RESEARCH
WILLIAM GILLESPIE
(803) 734-3805

GEODETIC SURVEY
5 GEOLOGY ROAD
COLUMBIA, S.C. 29210
LEWIS LAPINE
(803) 896-7700

DIGITAL CARTOGRAPHY
(803) 734-3802

HEALTH & DEMOGRAPHICS
STATISTICS
1919 BLANDING STREET
COLUMBIA, S.C. 29201
WALTER P. BAILEY, M.P.H.
(803) 898-9941

Docket No. 2009-300-C

Order No. 2009-816

November 19, 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

Docket No. 2009-300

Re: Application of LMK Communications LLC)
for a Certificate of Public Convenience and)
Necessity to Provide Resold and Facilities-)
based Local Exchange and Interexchange)
Telecommunications Services in the State)
of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and LMK Communications LLC ("LMK") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose LMK's Application. SCTC and LMK stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to LMK, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.
2. LMK stipulates and agrees that any Certificate which may be granted will authorize LMK to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.
3. LMK stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.
4. LMK stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until LMK provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, LMK acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. LMK stipulates and agrees that, if LMK gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then LMK will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. LMK acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and LMK, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

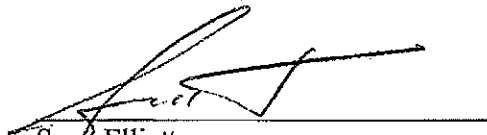
8. LMK agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. LMK hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 17th day of September,
2009.

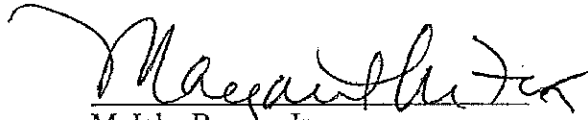
LMK Communications LLC

South Carolina Telephone Coalition:



Scott Elliott
Elliott & Elliott
721 Olive Street
Columbia, South Carolina 29205

Attorneys for Applicant LMK
Communications LLC



M. John Bowen, Jr.
Margaret M. Fox
Sue-Ann Gerald Shannon
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2009-300-C

In Re:)	
Application of LMK Communications,)	
LLC for a Certificate of Public)	SETTLEMENT AGREEMENT
Convenience and Necessity to Provide)	
Interexchange and Local Exchange)	
Telecommunications Services and for)	
Local Service Offerings)	

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and LMK Communications LLC. ("LMK" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party");

WHEREAS, on July 22, 2009, LMK filed its Application requesting (i) a Certificate of Public Convenience and Necessity be granted authorizing LMK to provide resold and facilities based local exchange and interexchange telecommunications services throughout the State of South Carolina, pursuant to S.C. Code Ann. §58-9-280(B), as amended, 26 S.C. Reg. 103-823 and Section 253 of the Telecommunications Act of 1996; (ii) flexible regulation of its local exchange services, consistent with Order No. 98-165 in Docket No. 97-467-C; (iii) alternative regulation of its interexchange services, consistent with Order Nos. 95-1734 and 96-55 in Docket 95-661-C as modified by Order No. 2001-997 in Docket No, 200-407-C; (iv) for waiver of certain Commission Regulations, specifically Regulation 103-610 regarding location of records, Regulation 103-631 regarding publication of directories, and Regulation 103-612.2.3 regarding publication of operating maps and (v) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts ("USOA");

WHEREAS on July 30, 2009, the Commission issued a Notice of Filing and Hearing and established a return date of August 31, 2009, for the filing of letters of protest or petitions to intervene and established a hearing date of October 26, 2009, for the application to be heard before hearing examiner David Butler, Esquire;

WHEREAS, on September 11, 2009, the Company filed the direct testimony of Jennifer Menge with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by LMK and its requests (i) for a Certificate of Public Convenience and Necessity to provide resold and facilities based local exchange and interexchange telecommunications services within the State of South Carolina; (ii) for flexible regulation of its local exchange services and alternative regulation of its interexchange services (iii) waiver of certain regulations of the Public Service Commission of South Carolina ("Commission"), specifically Regulations 103-610, 103-631, 103-612.2.3; and (iv) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts ("USOA");

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of LMK to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by LMK, and ORS has calculated certain performance ratios based upon information provided by LMK;

WHEREAS, ORS has investigated the services to be offered by LMK and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by LMK;

WHEREAS, as a result of its investigations, ORS has determined (a) LMK intends to offer resold and facilities based local and interexchange services; (b) the officers of LMK

possess sufficient technical and managerial abilities to adequately provide the services applied for; (c) based upon the information provided and the analysis performed, LMK appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (d) LMK's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (e) the provision of services by LMK will not adversely impact the availability of affordable telecommunications services; (f) to the extent it is required to do so by the Commission, LMK will participate in the support of universally available telephone service at affordable rates; and (g) interexchange services by LMK will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the filed testimony of the Company's witness Jennifer Menge without cross-examination by ORS.

2) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2008) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in Raleigh, North Carolina and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2008) or § 58-9-1070 (Supp. 2008). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

3) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2008) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit revenues and expenses associated with its South Carolina operations for compliance with programs such as but not limited to the Universal Service Fund ("USF"), the Interim LEC Fund, dual party relay service fund, and gross receipts. The Company agrees to complete the reporting forms for such programs as but not limited to USF, dual party relay service fund, Interim LEC, and gross receipts as may be required

by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

4) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-631 regarding the publication of directories. Because the Company has agreed to make arrangements for publication of its customer's listings, ORS does not oppose the requested waiver.

5) Given the Company's request to provide statewide service, ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-612.2.3 which requires the filing of operating maps. However, should the Company establish local exchange service areas which differ from those of the incumbent local exchange carriers, the Company agrees it will notify the Commission and ORS of the change and file updated service maps;

6) ORS does not oppose LMK's requests for flexible regulation of its local exchange services and alternative regulation of its interexchange service offerings consistent with the procedures described and set forth in Order No. 98-165 in Docket No. 97-467-C and Orders 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C. Flexible regulation includes (i) adoption of a competitive rate structure incorporating maximum rate levels with the flexibility for rate adjustment below the maximum rate levels and (ii) presumptively valid tariff filings upon filing subject to an investigation of such tariff filing being instituted within thirty (30) days. Alternative regulation of interexchange services provides for the (i) regulation of these services in the same manner as these services are regulated of AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for LMK's business services, private line, and customer network-type offerings, except in instances governed by Order No. 2001-997 which reinstituted maximum rates for surcharges and rates associated with certain intrastate operator-assisted calls; (iii)

presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) the same regulatory treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

7) LMK agrees to resell the services only of those local exchange providers or interexchange carriers authorized to do business in South Carolina by the Commission;

8) LMK agrees that it will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

9) LMK agrees to file necessary financial information as directed by the Commission or ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as LMK. The Parties agree that such reports shall be filed pursuant to ORS' instructions and monies shall be remitted in accordance with the directions of the ORS and/or the Commission.

10) LMK agrees to maintain its books and records in a manner that would permit ORS to examine any of LMK's reports filed with the Commission and provided to ORS.

11) LMK agrees to file with the Commission and ORS a completed authorized utility representative forms within thirty (30) days of the Commission's order.

12) In the event that LMK offers prepaid calling card services in the future, LMK agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission;

13) LMK agrees to comply with South Carolina Regulation 103-607 in that they will obtain a bond, irrevocable letter of credit, or certificate of deposit per the Commission's request if LMK provides pre-paid local exchange services.

14) LMK agrees to comply with the verification regulations governing change of preferred carriers as established by the Federal Communications Commission ("FCC"). LMK agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

15) LMK agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, LMK agrees to adhere to the FCC's rule 47 C.F.R. § 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, LMK shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

16) To the extent necessary, LMK agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

17) LMK agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," also known as 911 services." LMK agrees to contact the appropriate authorities regarding 911 services in the counties and cities where LMK will be operating prior to initiating local service in South Carolina and shall provide the 911 coordinator in each county and/or city with information regarding LMK's operations.

18) LMK agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

19) LMK agrees to file a final revised tariff with both the ORS and the Commission within 30 days of the Commission's order granting LMK's application and the revised tariff shall reflect and be in accordance with ORS' recommendations.

20) "Company" shall file its revised tariff within thirty (30) days of receipt of this Order utilizing the Commission's e-filing system for tariffs. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

21) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

22) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

23) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

24) This Settlement Agreement shall be interpreted according to South Carolina law.

25) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party.

26) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that

his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

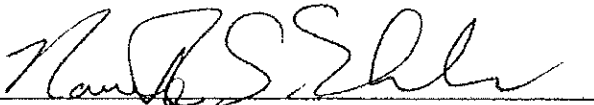
Docket No. 2009-300-C

Order No. 2009-816

November 19, 2009

WE AGREE:

Representing the Office of Regulatory Staff



Nanette S. Edwards
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
Telephone: (803) 737-0575
Fax: (803) 737-0895
Email: nsedwar@regstaff.sc.gov

10-19-2009
Date

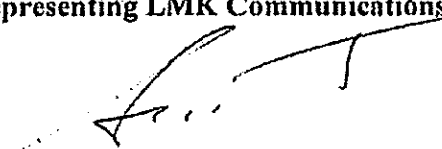
Docket No. 2009-300-C

Order No. 2009-816

November 19, 2009

WE AGREE:

Representing LMK Communications, LLC.



Scott Elliott
Elliott & Elliott, P.A.
721 Olive Street
Columbia, SC 29205
Telephone: (803) 771-0555
Fax: (803) 771-8010
sellott@elliottlaw.us

Date